

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LETTIE I. DUKE,

Plaintiff,

v.

METROPOLITAN LIFE INSURANCE
COMPANY,

Defendant.

§
§
§
§
§
§
§
§
§

C.A. No. 4:10-CV-2964

DEFENDANT'S DESIGNATION OF EXPERT WITNESSES

Defendant Metropolitan Life Insurance Company ("MetLife"), pursuant to the Rule 16 Scheduling Order filed December 9, 2010, states that it may call the following individuals as expert witnesses at the trial of this case:

- (1) Gil Lichtshein, M.D.
3108 76th Street
Lubbock, Texas 79423-1311
(806) 745-1900

Although he has not been retained or specially employed to provide expert testimony in this case, MetLife states that it may call Dr. Lichtshein to testify regarding the matters set forth in his report dated June 11, 2009 (ML 0290-0295).

- (2) Robert Y. Pick, M.D., MPH
Medical Consultants Network, Inc.
901 Boren Avenue, Suite 1400
Seattle, Washington 98104-3529
(800) 636-3926

Although he has not been retained or specially employed to provide expert testimony in this case, MetLife states that it may call Dr. Pick to testify regarding the matters set forth in his reports dated June 12, 2009 (ML 0282-0285) and July 14, 2009 (ML 0245-0247).

- (3) R. Kevin Smith, D.O.
[address and telephone number unknown]

Although he has not been retained or specially employed to provide expert testimony in this case, MetLife states that it may call Dr. Smith to testify regarding the matters set forth in his report dated January 29, 2009 (ML 0357-0369).

- (4) Barry F. Bass, M.D.
9920 Cypresswood Drive
Houston, Texas 77070
(281) 955-5585
- (5) James Scott Flowers, Ph.D, LPC-S
8876 Gulf Freeway
Houston, Texas 77017
(713) 807-1500
- (6) Melvyn A. Harrington, Jr., M.D.
Baylor College of Medicine
6620 Main Street, Suite 1325, Mail Stop BCM616
Houston, Texas 77030
(713) 986-5660
- (7) Larry L. Likover, M.D.
909 Frostwood, Suite 353
Houston, Texas 77024
(713) 465-0696
- (8) David R. Mack, M.D.
Advanced Orthopedics Sports Medicine
11800 FM 1960 West Road
Houston, Texas 77065
(281) 955-7577
- (9) Doan Nguyen, M.D.
Doan Khac Nguyen, M.D., P.A.
11301 Fallbrook Drive, Suite 100
Houston, Texas 77065
(281) 807-5432

Although they have not been retained or specially employed to provide expert testimony in this case, MetLife states that it may call one or more of the medical providers listed above to testify in general as to the treatment that Plaintiff Lettie I. Duke (“Duke”) received over time. It is anticipated that these medical providers will rely on their records pertaining to Duke in providing their testimony.¹

¹ MetLife objects, however, to any efforts by Duke to elicit testimony, whether expert or factual, from either Hung T. Nguyen, M.D. or Susie L. Nguyen, M.D., as they have wholly failed to comply with the subpoena that MetLife served on them.

- (10) Custodian of Records
Cypress Fairbanks Medical Center Hospital
7440 FM 1960 Road West
Houston, Texas 77070
(281) 469-4094
- (11) Custodian of Records
The Methodist Hospital
Department of Radiology
6565 Fannin, Mail Stop M-204
Houston, Texas 77030-2701
(713) 394-6780
- (12) Custodian of Records
The Methodist Willowbrook Hospital
Center for Rehabilitation
18220 Tomball Parkway
Houston, Texas 77070
(281) 477-4746
- (13) Custodian of Records
The Methodist Willowbrook Hospital
Department of Radiology
18220 Tomball Parkway
Houston, Texas 77070
(281) 477-1234

Although they have not been retained or specially employed to provide expert testimony in this case, MetLife states that it may call one or more of the custodians listed above to testify in general as to the treatment that Duke received over time. It is anticipated that these custodians will rely on the records of their respective facilities pertaining to Duke in providing their testimony.

- (14) Andrew C. Whitaker
Figari & Davenport, L.L.P.
3400 Bank of America Plaza
901 Main Street
Dallas, Texas 75202
(214) 939-2000

Although he has not been retained or specially employed to provide expert testimony in this case, Whitaker may testify concerning the reasonableness of the attorney's fees sought in this lawsuit, taking into account the relevant criteria for such charges. (MetLife contends that the parties should submit the issue of attorney's fees to the Court by motion following the trial. See Fed. R. Civ. P. 54(d)(2).)

Because MetLife is designating its expert witnesses without the benefit of complete information regarding Duke's expert witnesses, MetLife reserves the right to designate rebuttal and/or additional expert witnesses, including, but not limited to, those witnesses designated by Duke, as discovery and the circumstances of this case dictate.

MetLife further reserves the right to call any expert witnesses designated by Duke, even if such expert is re-designated.

MetLife further reserves the right to withdraw the designation of any of its expert witnesses and to re-designate such experts as consulting experts who may not be called to testify.

MetLife further reserves the right to supplement the opinions of its experts as necessary.

MetLife further states that this designation is a supplementation of all discovery requests seeking information regarding its expert witnesses, its fact witnesses, or persons with knowledge of relevant facts.

Respectfully submitted,

By: /s/ Andrew C. Whitaker
Andrew C. Whitaker
State Bar No. 21273600
Amber Billingsley
State Bar No. 24061294

FIGARI & DAVENPORT, L.L.P.
3400 Bank of America Plaza
901 Main Street
Dallas, Texas 75202
(214) 939-2000
(214) 939-2090 (telecopy)

ATTORNEYS FOR DEFENDANT
METROPOLITAN LIFE INSURANCE
COMPANY

CERTIFICATE OF SERVICE

I hereby certify that on March 24, 2011, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants: Mr. Scott King Field, The Field Law Firm, 5910 Courtyard Drive, Suite 255, Austin, Texas 78731, and Mr. Blair Brininger, Brininger Ltd., 1400 Broadfield, Suite 200, Houston, Texas 77084.

/s/ Andrew C. Whitaker
Andrew C. Whitaker